

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
S. DISTRICT COURT
DISTRICT OF NEBRASKA
14 JAN 20 PM 2:41
ARY D. McFARLAND
CLERK

LORI FOSTER,

Plaintiff,

vs.

EVANGELICAL LUTHERAN CHURCH)
IN AMERICA d/b/a/ DANA COLLEGE,)

Defendant.

CASE NO. 8:04 CV 20

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

COMES NOW, the Plaintiff, and for her causes of action against the Defendant, alleges and states as follows:

JURISDICTION

1.

This is a civil action which arises out of acts of sex discrimination by Defendant against Plaintiff in violation of §703(a) of the 1964 Civil Rights Act.

2.

That this court has jurisdiction over the above claims pursuant to 28 U.S.C. § 1331 and § 1337. This court also has pendent jurisdiction over Plaintiff's state claim for wrongful termination of employment.

PARTIES

3.

That Plaintiff, Lori Foster (hereinafter referred to as "Foster"), is a female and a resident of Omaha, Douglas County, Nebraska and was an employee of the Defendant , and at all times material herein was a member of a protected class.

4.

That Defendant (hereinafter referred to as "Dana College") is a liberal arts college of the Evangelical Lutheran Church in America operating under the laws of the State of Nebraska, with a business address of 2848 College Drive, Blair, Nebraska 68008

PROCEDURAL REQUIREMENTS

5.

Plaintiff previously filed a charge of discrimination satisfying all statutory requirements of 29 U.S.C. § 620 *et seq.* with the Nebraska Equal Opportunity Commission. That such charge was filed within 180 days after the alleged unlawful employment practices occurred and that 60 days have elapsed since the filing of such charge. The October 22, 2003, Dismissal and Notice of Rights is attached hereto, incorporated herein and marked as "Exhibit A" which document was received by Plaintiff within 90 days of the filing of this action.

FACTS

6.

That Plaintiff commenced employment by written contract with Defendant coaching womens' collegiate athletics.

7.

That on December 31, 2002, Plaintiff's employment with Defendant was terminated by Defendant.

FIRST CAUSE OF ACTION

8.

Plaintiff incorporates herein by reference as if fully sets forth the allegations contained in paragraphs 1-7.

9.

That the Defendants discharge of Plaintiff constitutes intentional and willful discrimination because of disparate treatment between her and her male coaches.

10.

That as a direct and proximate result of Defendant's discriminatory acts and termination of Plaintiff's employment she has sustained damages and will continue to sustain the same.

11.

Plaintiff is entitled to damages for back pay and benefits as well as future loss of pay and benefits, reinstatement or in lieu thereof, front pay, and liquidated damages equal to the loss of back pay and benefit together with prejudgment interest, all costs associated with the prosecution of this action, and reasonable attorney fees.

SECOND CAUSE OF ACTION

12.

Plaintiff hereby refers to and incorporates by reference each and every one of the above allegations as if set forth fully herein.

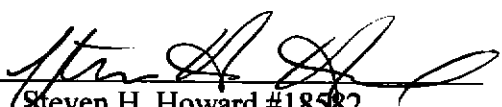
13.

Plaintiff was discriminated against when her employment was terminated by Defendant in violation of *Neb. Rev. Stat. §48-1102 et seq.*

WHEREFORE, Plaintiff prays for judgement on her Second Cause of Action against Defendant for future and past loss, compensation, compensatory damages, Defendant's employment of Plaintiff together with reasonable attorney fees and such other and further relief as the Court may deem just and equitable in the premises.

DATED this 20th day of January, 2004.

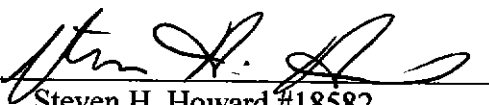
LORI FOSTER, Plaintiff

By 
Steven H. Howard #18582
DOWD DOWD & HOWARD
1411 Harney Street, Suite 100
Omaha, Nebraska 68102
(402) 341-1020
ATTORNEYS FOR PLAINTIFF

JURY DEMAND AND DESIGNATION OF PLACE OF TRIAL

Plaintiff hereby makes demand for a trial by jury and designates Omaha, Nebraska, as the place of trial.

LORI FOSTER, Plaintiff

By 
Steven H. Howard #18582
DOWD DOWD & HOWARD
1411 Harney Street, Suite 100
Omaha, Nebraska 68102
(402) 341-1020
ATTORNEYS FOR PLAINTIFF

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Lori Foster**
9216 Ohio St. Apt. 5
Omaha, NE 68134

From: **Denver District Office**
303 East 17th Avenue
Suite 510
Denver, CO 80203

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

32EA200422**Ronald Houser S & L Coordinator****(303) 866-1340****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans with Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.

☐

Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.

☐

While reasonable efforts were made to locate you, we were not able to do so.

☐

You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

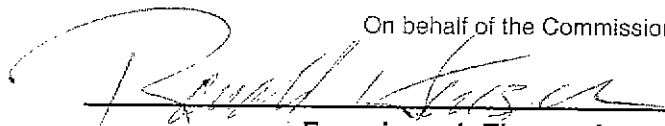
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this Notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Francisco J. Flores, Jr.,
District Director

Enclosure(s)

OCT 22 2003

(Date Mailed)

cc: **Dana College**
2848 College Drive
Blair, NE 68008

EXHIBIT**A**

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